

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF: CHAMNESS TECHNOLOGY, INC. Wapello County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2008-WW - 31 NO 2008-SW- 40
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TO: Chamness Technology, Inc.
Autumn Denato, Manager
24820 160th Street
Eddyville, Iowa 52553

Chamness Technology, Inc.
Gary Chamness, Registered Agent
2255 Little Wall Lake Road
Blairsburg, Iowa 50034

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Chamness Technology, Inc. (Chamness) for the purpose of resolving solid waste and waste water violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:
Paul Brandt, Field Office 6
Iowa Department of Natural Resources
1023 W. Madison
Washington, Iowa 52353
Phone: 319/653-2135

Relating to legal requirements:
Kelli Book, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-8563

Payment of penalty to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.175(1) and 455B.307(2), which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B,

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Division III, Part 1 or Iowa Code chapter 455B, Division IV, Part 1 and the rules adopted or permits issued pursuant thereto and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

Chamness neither admits nor denies the Statement of Facts and enters into this administrative consent order for settlement purposes only.

1. Chamness is an active, permitted, composting facility located several miles south of Eddyville (N 1/2, NW 1/4, Section 19, T73N, R15W, Wapello County). In addition to wood waste and yard waste, Chamness uses numerous industrial waste streams in its composting process. The facility has two retention basins (east and west ponds) to collect and contain all runoff from the 16 acre, asphalt paved composting pad.

2. On October 16, 2006, Chamness was issued an Operation Permit for a Land Application System (Permit #90-00-1-05). The operation permit provided provisions for the land application of storm water runoff from the Chamness facility. The operating permit specifically states that any discharge of waste water to surface waters is not permitted and no sanitary waste may be discharged to the runoff storage ponds. On December 6, 2007, Chamness was issued a Solid Waste Composting Permit (Permit #90-SDP-10-97P-COM). The composting permit included the provisions on the operation and maintenance of the facility, an operating plan, and a list of approved facilities and products to be accepted at the facility. The composting permit has been amended on several occasions since the original issuance.

3. On November 2, 2007, DNR Field Office 6 received a complaint. The complainant stated that it had rained 21 inches during the summer and fall and questioned whether the Chamness facility could hold all the water without overflowing. DNR Field Office 6 staff investigated the complaint on November 9, 2007. The ponds were not overflowing. The east pond had one inch of freeboard and the west pond had three inches of freeboard.

4. On February 26, 2008, DNR Field Office 6 received a complaint concerning the possibility of snow melt runoff at Chamness. DNR Field Office 6 investigated the complaint on March 4, 2008 and found the ponds to be within inches of overflowing. On March 10, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violations of the facility's Storm Water Pollution Prevention Plan of its composting permit, specifically provisions 6 – 8 regarding when the water reaches or exceeds the freeboard levels. The letter informed Chamness that further evidence of improper operation and management of the storm water control lagoons would result in further enforcement.

5. On April 21, 2008, DNR Field Office 6 received a complaint stating that a terrible odor was coming from the Chamness facility and the complainant questioned the

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facility's ability to hold all the water generated from the heavy rains that were occurring. On April 22, 2008, DNR Field Office 6 received a complaint that the lagoons at Chamness were overflowing. Paul Brandt, environmental specialist for DNR Field Office 6, investigated the complaint and observed that the west pond was full and overflowing and the east pond was leaking through the berm and the discharge was reaching Palestine Creek. Mr. Brandt collected a sample of the discharge where it met Palestine Creek, a sample from 10 yards upstream from the point at which the discharge met Palestine Creek, and a sample 20 yards downstream from the point at which the discharge met Palestine Creek. The results were as follows:

Location	Biochemical Oxygen Demand (BOD)	Ammonia Nitrogen (NH3)	Total Suspended Solids (TSS)
Discharge Point	8900 mg/L	190 m/L	550 mg/L
Downstream	520 mg/L	42 mg/L	64 mg/L
Upstream	Less than 7 mg/L	1.9 mg/L	9 mg/L

6. On April 23, 2008, Mr. Brandt called the Chamness facility site manager, Autumn Denato, to inform her of the results of his investigation. Mr. Brandt advised Ms. Denato that the ponds were overflowing and leaking. Mr. Brandt also received a call from Gary Chamness. Mr. Chamness reported that he was sending bigger equipment, including an umbilical applicator, to the Eddyville facility to get the ponds pumped down.

7. On April 29, 2008, DNR Field Office 6 received a complaint stating that Chamness was allowing the storm water ponds to overflow and discharge into a nearby creek. The complainant stated the discharge was causing the creek to smell. On May 1, 2008, DNR Field Office 6 received another complaint alleging that a strong odor was coming from the Chamness facility. Mr. Brandt called Ms. Denato about the complaint. Ms. Denato stated that they were pumping out of the ponds and that was probably the source of the odor. Ms. Denato also reported that they had gained enough freeboard to drain the water on the pad back into the pond, and also that the big equipment had arrived and was set up.

8. On May 8, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violating conditions of its operating permit, having an unpermitted discharge, and failing to maintain its facility in good working order. The letter also informed Chamness that the matter was being referring for further enforcement.

9. On May 12, 2008, DNR Field Office 6 received a complaint that the Chamness facility was generating a terrible odor and because it rained 2 inches on May 10, 2008 there was water standing on the pad. On May 20, 2008, Mr. Brandt from DNR Field Office 6, along with Matt McDonald, Chad Stobbe, and Kirsten Duke, DNR Central Office personnel, visited the Chamness facility. Facility staff had been pumping and applying from the ponds. The west pond had about two feet of freeboard; however there was still water standing on the west end of the pad. The east pond had only a few inches of freeboard, but facility staff was setting up to land apply from the east pond during the visit. The DNR staff

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observed that the east pond was overflowing the south side of the dike. The leak in the berm was still there, but facility staff had constructed a dam composed of compost from the Chamness facility across the drainage way below the seep to contain what leaked out. Dead vegetation indicated there had been an overflow from the south dike of the east pond since the April 22, 2008 visit.

10. On May 27, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violating the facility's operating permit and the facility's lack of freeboard. The letter required the facility to develop an emergency waste water contingency plan, a plan of action regarding waste water storage capacity, and to keep pumping down the ponds. The letter also reminded Chamness the violations were being referred for further enforcement.

11. On July 15, 2008, DNR Field Office 6 received a complaint alleging that Chamness was not mixing raw feedstock into the compost pad for 8-9 weeks at a time. The complainant also stated that the raw feedstock did not have a bulking agent mixed with it. The complainant also alleged that the odor was terrible, corn starch had been accepted without DNR approval, soybeans were scattered all over, and Chamness was selling uncured compost. Kurt Levetzow and Aaron Pickens, DNR Field Office 6 environmental specialists, investigated the complaint on the same day it was received. While investigating the mixing area, Mr. Levetzow and Mr. Pickens observed the compost pile was extremely large and did not appear to have bulking material mixed in. Since the compost pad containing the compost material was at its maximum holding capacity, there was not enough room to start new rows of compost with the mixed material. The leachate being released onto the westerly edge of the pile indicated the pile had been sitting in the same location in excess of 24 hours. Due to the size of the pile, lack of aeration due to the absence of bulking material, and the excessive moisture present, the compost mixtures went anaerobic and caused an unfavorable odor. Mr. Levetzow and Mr. Pickens also observed standing water (ponding) on the northeast corner of the compost pad. Mr. Levetzow and Mr. Pickens did not observe evidence of scattered soybeans and could not verify the selling of uncured compost. On July 21, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violations of the facility's composting permit.

12. On July 22, 2008, Brent Earley, DNR Field Office 6 environmental specialist, visited the Chamness facility to investigate an issue with regard to odor from compost that was delivered to the Ottumwa Landfill. During the inspection, Mr. Earley noted a large volume of water retained at the east end of the pad and as a result of the ponding the leachate was running off the pad to the east into the unlined soil. Mr. Earley also noted that the facility may be receiving more feedstock than it can adequately process. Mr. Earley found indications that Chamness was accepting starch from Cargill, Cedar Rapids. Cargill, Cedar Rapids and starch were not on the Approved Solid Waste Feedstock list as stated in Table 1 of its composting permit. Mr. Earley found evidence that Chamness was not following best management practices in terms of the maintenance of the ponds. On July 24, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violations of its operating permit and its composting permit. The letter required Chamness to submit a Plan of Action to address the violations by August 8, 2008. On August 4, 2008, Chamness submitted a Plan

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of Action and met with DNR personnel to discuss the plan. Chamness indicated the facility planned to construct a third storage pond. Chamness also stated that a more detailed letter regarding the Notice of Violation letters would be submitted to the DNR within the next week.

IV. CONCLUSIONS OF LAW

Chamness neither admits nor denies the Conclusions of Law and enters into this administrative consent order for settlement purposes only.

1. Iowa Code section 455B.186 states that a pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state, except for adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the Director. On April 22, 2008, Mr. Brandt observed that the west pond was full and overflowing and the east pond was leaking through the berm. The discharge was reaching Palestine Creek. The above facts indicate a violation of this provision.

2. 567 IAC 64.3(1) states that no person shall operate any wastewater disposal system or part thereof, without, or contrary to any condition of an operation permit issued by the Director. Operating Permit #09-001-1-05 allows for the land application of wastewater. However, the permit prohibits waste discharge into a water of the State caused, allowed or permitted from waste storage facilities or from the land application system. During Mr. Brandt's inspection in April 2008, he observed and confirmed that discharge from the Chamness facility was reaching a water of the State. The above facts indicate a violation of this provision.

3. Pursuant to 567 IAC 105.3(4), Provision #10 in Composting Permit #90-SDP-10-97P-COM states that the compost facility must be managed so as to minimize ponding of water or liquids and to provide adequate drainage of storm water offsite to the detention ponds. Any ponding that does occur shall be corrected through routine facility maintenance and/or operation within 24 hours after the termination of the event causing ponding. On July 15, 2008, Mr. Levetzow and Mr. Pickens observed a large volume of water retained at the east end of the pad, both on the north and south side most likely caused by drainage lines being plugged to the stormwater/leachate pond. On July 22, 2008, Mr. Earley observed ponding at the facility as well. The above-mentioned facts indicate violations of this provision.

4. Provision #6 in Composting Permit #90-SDP-10-97P-COM states that the permit holder shall operate the facility in accordance with 567 IAC 105.3. 567 IAC 105.3 requires that measures shall be taken to...and to prevent compost leachate and runoff from leaving the composting facility. On July 22, 2008, Mr. Earley observed leachate was running off the pad to the east into the unlined soil. The above-mentioned facts indicate a violation of this provision.

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5. The Storm Water Pollution Prevention Plan of Composting Permit #90-SDP-10-97P-COM, specifically provisions 6 – 8 states the requirements for when the water reaches or exceeds the freeboard levels. During DNR Field Office 6's March 4, 2008 inspection, it was discovered Chamness was not complying with provisions 6-8 as both ponds were within inches of overflowing the earthen berms. The above-mentioned facts indicate a violation of this provision.

6. Provision #1 in Composting Permit #90-SDP-10-97P-COM requires that Chamness only accept solid waste from facilities listed in Table 1 of the permit and only products listed in Table 1 of the permit. On July 22, 2008, Mr. Earley discovered that Chamness was accepting starch from Cargill, Cedar Rapids. Cargill, Cedar Rapids was not listed in Table 1 of the permit, nor was the starch product. The above-mentioned facts indicate a violation of this provision.

7. 567 IAC 105.9(3) states that all materials received must be incorporated into the composting process within 24 hours of receipt unless storage of these materials is specified in the plan and approved by the DNR. During the field office's visit on July 15, 2008, the field staff observed that the mixing area compost pile was extremely large. Since the compost pad containing the compost material was at its maximum holding capacity, there was not enough room to start new rows of compost with the mixed material. The leachate being released onto the westerly edge of the pile indicated the pile had been sitting in the same location in excess of 24 hours. The above-mentioned facts indicate a violation of this provision.

8. 567 IAC 64.7(5) requires that the permittee must maintain the facility in good working order and operate as efficiently as possible any facilities or systems of control to achieve compliance with the terms and conditions of the permit. The inspections conducted by DNR Field Office 6 between March 2007 and July 2008 indicate that Chamness has failed to properly maintain the facility on several occasions. The above-mentioned facts indicate violations of this provision.

9. 567 IAC 105.3(7) states that solid waste materials shall be managed through the entire process in accordance with best management practices to minimize conditions such as odor, dust, noise, litter and vectors which may create nuisance conditions or a public health hazard. Chamness has had four odor complaints thus far in 2008. Due to the size of the compost pile, lack of aeration due to not containing bulking material, and the excessive moisture present, the compost mixtures went anaerobic and caused an unfavorable odor. The above-mentioned facts indicate violations of this provision.

V. ORDER

THEREFORE, the DNR orders and Chamness agrees to do the following:

1. Chamness shall comply with the attached Plan of Action and all other provisions of 567 IAC 105, Permit #90-00-1-05, and Permit #90-SDP-10-97P-COM and

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2. Chamness shall pay a penalty of \$10,000.00. \$2,000.00 of the penalty shall be paid to the DNR within 30 days of the date the Director signs this administrative consent order. In lieu of payment of the remaining \$8,000.00, Chamness shall:

Conduct a Supplemental Environmental Project (SEP). The SEP shall consist of a payment to the Iowa Natural Heritage Foundation.
Chamness shall make a payment of \$8,000.00 to the Iowa Natural Heritage Foundation within 30 days of the date the Director signs this administrative consent order. Once the payment is made, Chamness shall submit a receipt of payment to Kelli Book, attorney for the DNR.

VI. PENALTY

1. Iowa Code sections 455B.191 and 455B.307 authorize the assessment of civil penalties of up to \$5,000.00 per day of violation for each of the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with an administrative penalty of 10,000.00. The administrative penalty is determined as follows:

Economic Benefit – Land application of wastewater is labor intensive, time consuming, and costs money. Hauling it to a treatment plant is even more expensive. Chamness saved considerable money by not maintaining adequate freeboard in its lagoons and not properly managing its waste water. Based on the above considerations, \$3,000.00 is assessed for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The water that reached Palestine Creek had significantly high BOD and ammonia nitrogen levels. Moreover, failure to properly maintain and manage waste water threatens the integrity of the regulatory program. Based on the above considerations, \$2,000.00 is assessed for the discharge to Palestine Creek and \$2,500.00 is assessed for the operating and composting permit violations, for a total of \$4,500.00 being assessed for this factor.

Culpability – Chamness has a duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Chamness was well aware of its waste water situation. DNR Field Office 6 had visited the

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facility on March 3, 2008 and sent a letter on March 10, 2008 advising the facility that the ponds were within inches of overflowing and action was needed. Based on the above considerations, \$2,500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Chamness. For that reason Chamness waives its rights to appeal this administrative consent order or any part thereof.

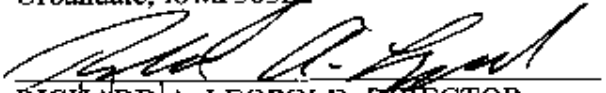
VIII. NONCOMPLIANCE

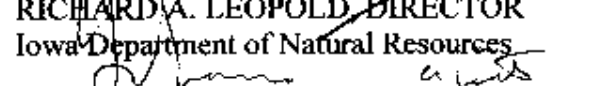
Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent order. Failure to comply with this administrative consent order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code sections 455B.191 and 455B.307.

Payment of Penalty shall be submitted to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

Payment to the Iowa Natural Heritage Foundation shall be submitted to:
Stacy Nelson, Membership Coordinator
Iowa Natural Heritage Foundation
505 5th Avenue, Suite 444
Des Moines, Iowa 50309

Receipt of Iowa Natural Heritage Foundation payment shall be submitted to:
Kelli Book, Attorney
DNR
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources


AUTHORIZED AGENT
Chamness Technology, Inc.

Dated this 19 day of
Nov., 2008.

Dated this Nov day of
10, 2008.

Kelli Book; Paul Brandt-FO6; Matt McDonald; EPA; VIII.D.1.b

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**PLAN OF ACTION
CHAMNESS TECHNOLOGY, INC.
EDDYVILLE, IOWA COMPOST FACILITY**

A copy of the revised Operation Plan shall be submitted to the DNR by December 31, 2008.

1: Prevention of Storm Water Ponding

- Properly maintain the drain line on the east end of the pad;
- Revise the Operation Plan by December 15, 2008 to include monthly drain line inspection and cleaning within five days after the inspection, if necessary; and
- Revise the Operation Plan by December 15, 2008 to require the placement of compost windrows in a manner that does not impede storm water drainage from the feedstock mixing area.

2: Storm Water Pollution Prevention Plan Amendment

- The May 2007 Storm Water Pollution Plan will be revised by December 15, 2008 to include the following:
 - Revise the description of storm water storage ponds to include the proposed temporary storm water storage pond;
 - Add a provision for the annual inspection of the temporary storm water storage ponds for solid accumulation and pond cleaning, if necessary; and
 - Add a provision for quarterly inspections of the site during a significant precipitation event to ensure all storm drainage from the composting pad is being collected and diverted to the temporary storm water storage ponds.
- Submit a copy of the revised plan to the Department by December 31, 2008.

3: Storm Water Pond Sludge Management

- The quantity of sludge in each of the two temporary storm water storage ponds will be determined by December 15, 2008; and
- If the estimated quantity of sludge in either of the temporary storm water storage ponds exceeds 25% of the total pond storage capacity, the sludge will be removed and wither utilized in the composting process or applied to permitted land application sites within 60 days of completion of the third storage pond.

4: Feedstock Processing Management

- The Operating Plan will be revised by December 15, 2008 to include the following:
 - Modify the description of the mixing and blending operation to ensure the material flows through the process in a plug flow pattern (i.e. oldest mixed material is removed from mixing and blending area first and moved to the composting pad);
 - New materials in the moving stacks will be put down at the lowest elevation level of each specific moving stack formation and the materials in each formation will be moved upgradient toward the pad center as material is turned so the more finished the material in each stack formation, the higher the elevation of that material in the formation; and

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-Modify the description of frequency of stack turning from at least once per week to at least twice per week.

5. **Housekeeping**

- The Operating Plan will be revised by December 15, 2008 to include significant, generally accepted best management (housekeeping) practices; and
- Plant a row of trees to provide adequate coverage on the north berm of the compost site by June 1, 2009.

6. **Storm Water Storage and Management**

- An additional pump has been purchased for loading storage pond water onto high capacity tankers and field application equipment;
- A four-wheel drive tractor has been allocated to the facility for using 6,000 gallon field injection equipment in addition to the existing 2,250 gallon application equipment and direct injection system;
- A truck tractor power unit has been allocated to this facility for hauling storm water offsite, if necessary;
- An additional employee has been added to the staff for storm water management;
- A construction permit application for an additional temporary storm water storage pond has been submitted to DNR and will be constructed within one year after the DNR issues the construction permit;
- If not already completed, the Operation Plan and Storm Water Pollution Prevention Plan will be revised by December 15, 2008 to include the following:
 - Add a provision for weekly monitoring and recording of temporary storm water storage pond levels. This includes the installation of a marker or gauge to provide a tool for the monitoring and recording; and
 - Expand the recommended actions for addressing high storage pond water levels including transferring water to the proposed temporary storm water storage ponds and a treatment agreement with a Waste Water Treatment Plant.

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